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Agency Secretary

# California Regional Water Quality Control Board North Coast Region

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Arnold  
Schwarzenegger  
Governor

## **HEARING PROCEDURE**

### **PROPOSED WATERSHED WIDE WASTE DISCHARGE REQUIREMENTS FOR TIMBER HARVEST PLAN ACTIVITIES CONDUCTED BY SCOTIA PACIFIC COMPANY, SALMON CREEK CORPORATION, AND THE PACIFIC LUMBER COMPANY IN THE ELK RIVER AND FRESHWATER CREEK WATERSHEDS (RESOLUTION NO. R1-2005-0064, ORDER NO. R1-2005-0065; RESOLUTION NO. R1- 2005-0066, ORDER NO. R1-2005-0067)**

## **WRITTEN SUBMITTALS**

The deadline for all parties and interested persons to submit written material (evidence, testimony, comments) was originally August 1, 2005. A Supplemental Notice of Public Hearing dated July 27, 2005, extended that deadline to 5:00 p.m. on August 8, 2005. As the Supplemental Notice provides, written submittals received after that date will not be accepted or included in the record, except at the Chair's discretion based on a showing of severe hardship.

Should the WWDRs be substantially and substantively revised by the WWDR Issuance Team (as determined by the Regional Water Board Chair), the Regional Water Board may allow additional written submittals that address those changes. If additional written materials are to be allowed, the Regional Water Board will notify all parties and interested persons.

## **HEARING PARTICIPATION**

Participants at the hearings (excluding the Board members and WWDR Advisory Team), are either "parties" or "interested persons." The following describes the procedures governing the participation by these two groups.

### **Designated Parties**

Parties to the hearing may present evidentiary testimony, and are subject to cross-examination. Parties may also cross-examine other parties' witnesses. Because of the complexity of their participation, parties receive more time to address the Regional Water Board and cross-examine witnesses.

The following participants were preliminarily designated as parties for these hearings:

1. Scotia Pacific Company, Salmon Creek Corporation, and The Pacific Lumber Company (collectively PALCO)
2. Humboldt Watershed Council (HWC)

***California Environmental Protection Agency***



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### 3. North Coast Regional Water Quality Control Board WWDR Issuance Team (Issuance Team)

Interested persons were given the opportunity to request designated party status. A Pre-Hearing Conference was held on August 29, 2005, to resolve those requests and to consider additional concerns about the Draft Hearing Procedure.

Present at the conference in person were representatives of the following designated parties and interested persons requesting designated party status:

1. Issuance Team;
2. PALCO;
3. California Forestry Association (CFA);
4. Environmental Protection Information Center (EPIC);
5. Group of Watershed Area Land and Ranch Owners, Residents and Land Managers (Owners);  
and
6. Kristi Wrigley/Elk River Residents Association (ERRA).

The representative for HWC was present on the telephone.

Others not requesting designated party status also attended the conference. A handful of people were present in person and a representative of Green Diamond Resource Company was present on the telephone.

After the Pre-Hearing Conference concluded, representatives of the Regional Water Board Advisory Team, Catherine Kuhlman and Erik Spiess, met with the Regional Water Board Chair and Vice Chair. The Chair and Vice Chair determined the final list of designated parties, time allocations, and order of proceedings. This procedure embodies that determination.

The following is a list of the designated parties and their time allocations for the September 14-15, 2005 hearing:

1. Issuance Team (2.5 hours)
2. PALCO (2.5 hours)
3. CFA (1 hour). (CFA is added as a designated party.)
4. HWC/EPIC/ERRA (1 hour, 45 minutes). (ERRA, as represented by Kristi Wrigley, is added as a co-party with HWC and EPIC.)

Owners are denied designated party status. Owners will, however, receive 21 minutes for up to seven individual members to address the Regional Water Board. Instead of presenting multiple speakers, Owners may wish to designate a representative to speak for 21 minutes. Members of Owners wishing to address the Board will need to submit a speaker card prior to the start of the hearing that identifies them as a member of Owners. (The procedure for submitting speaker cards is described below.) The Regional Water Board Chair will call consecutively on Owners wishing to speak. The Owners may present policy statements only, not evidentiary testimony.

Each party may allocate its time for its opening statement, cross-examination, and rebuttal/closing in any way it desires. Board members and members of the WWDR Advisory Team may ask questions

at any time. Time spent by a party answering these questions will not count against the party's total allocation.

### Interested Persons

Interested persons may participate in the hearings with certain limitations. Interested persons may present non-evidentiary policy statements that will be heard first, prior to the presentation of evidence by the parties. Interested persons are not subject to cross-examination and may not cross-examine other parties. Interested persons will receive a maximum of **3 minutes** to make their policy statements.

Because of the complexity and controversy associated with this matter, time to speak is limited. Nevertheless, the Board will provide an opportunity for interested persons to present policy statements on this item. As shown on the Order of Procedure below, two hours and 21 minutes will be provided at the commencement of the hearing for interested persons to present policy statements. Persons interested in addressing the Board as Interested Persons on either September 14, 2005, or September 27, 2005, **must sign up or submit a speaker card in advance of the beginning of the hearings, scheduled for 9:00 a.m.** For efficiency, persons are encouraged to submit their request in advance of the day of the hearing. To sign up in advance, send an email request to Jean Lockett ([jlockett@waterboards.ca.gov](mailto:jlockett@waterboards.ca.gov)). Provide in the email the following:

1. Name (persons who wish to remain anonymous contact Jean Lockett)
2. Group, agency, or interest on whose behalf you are appearing.
3. General topic of the policy statement you plan to present.

If you do not have access to email, you may convey the above information to Ms. Lockett by telephone (707) 576-2307.

Persons may also submit a speaker card on the day of the hearing. Speaker cards will be accepted only until the beginning of the hearing, which is scheduled for 9:00 a.m. **No speaker cards will be accepted after the beginning of the hearing.**

### VISUAL AIDS

Interested persons or designated parties may wish to use handouts, computer presentations, or other visual aids. These visual aids may only be used to present or summarize written material already in the record for this item. The record for this item comprises materials in the Regional Water Board files for these WWDRs and written comments/evidence either received by August 8, 2005, or late-submitted materials accepted into the record by the Regional Water Board Chair. Visual aids may not present new evidence.

**Handouts.** Designated parties or interested persons wishing to use handouts must do the following:

1. **Fifteen copies** must be provided to Jean Lockett to ensure that Board Members and staff receive one.
2. All handouts (including copies) to be presented at the September 14-15, 2005 hearing must be must be received by Jean Lockett, Executive Secretary, no later than **Noon on September 9, 2005.**



3. On that same date, the submitter must serve (by mail or email) one copy of each handout on each of the designated parties. Names and email addresses for the contact persons of the designated parties are: Adrian Miller ([amiller@scopac.com](mailto:amiller@scopac.com)), Christopher Carr ([CCarr@mofo.com](mailto:CCarr@mofo.com)), Kristi Wrigley ([kwrigley@direcway.com](mailto:kwrigley@direcway.com)), Mark Lovelace ([sheds@humboldt1.com](mailto:sheds@humboldt1.com)), Michael Lozeau ([mrlozeau@lozeaulaw.com](mailto:mrlozeau@lozeaulaw.com)), Sharon Duggan ([FoxSDuggan@aol.com](mailto:FoxSDuggan@aol.com)), Michele Diaz ([micheled@cwo.com](mailto:micheled@cwo.com)), Robert Klamt ([RKlamt@waterboards.ca.gov](mailto:RKlamt@waterboards.ca.gov)), Sheryl Schaffner ([SSchaffner@waterboards.ca.gov](mailto:SSchaffner@waterboards.ca.gov)). If you need mailing addresses for any of the designated parties, contact Jean Lockett at (707) 576-2703.
4. To aid in verifying that the handout does not contain new evidence, each handout shall be labeled, denoting its location in the Regional Water Board file or, if submitted as evidence, the date it was received by the Regional Water Board and from whom.

**Computer Presentations.** The Regional Water Board has a laptop computer and digital projector for delivering computer presentations (e.g., PowerPoint). For computer presentations to be shown at the September 14-15, 2005 hearing, a copy of the computer presentation in electronic format (preferably compact disk) must be received by Jean Lockett no later than **Noon on September 13, 2005**. The copy provided will become part of the record for this item.

**Other Visual Aids.** If an interested person or designated party desires to present material visually at the September 14-15, 2005, hearing via another method, please contact Jean Lockett at (707) 576-2307 ([jlockett@waterboards.ca.gov](mailto:jlockett@waterboards.ca.gov)) **on or before September 9, 2005**.

### **ORDER OF PROCEEDINGS - 9/14-15 HEARING**

The following order of proceedings governs the September 14-15, 2005 evidentiary hearing. The purpose of this hearing is for the Regional Water Board to hear policy statements from interested persons, hear the parties summarize their previously submitted written evidence, and to allow the parties to cross-examine other parties' witnesses. At the conclusion of the hearing, the Regional Water Board may give direction to the Issuance Team to make revisions to the proposed WWDRs.

1. Open Hearing (Chair reads procedure)
2. Policy Statements by Interested Persons (time limit - 2 hours, 21 minutes)
3. Issuance Team Opening
4. PALCO Cross-Examination
5. CFA Cross-Examination
6. HWC/EPIC/ERRA Cross-Examination
7. PALCO Opening
8. Issuance Team Cross-Examination
9. HWC/EPIC/ERRA Cross-Examination
10. CFA Cross-Examination
11. CFA Opening
12. Issuance Team Cross-Examination
13. PALCO Cross-Examination
14. HWC/EPIC/ERRA Cross-Examination
15. HWC/EPIC/ERRA Opening
16. PALCO Cross-Examination
17. CFA Cross-Examination



18. Issuance Team Cross-Examination
19. HWC/EPIC/ERRA Cross-Examination
20. HWC/EPIC/ERRA Rebuttal/Closing
21. CFA Rebuttal/Closing
22. PALCO Rebuttal/Closing
23. Issuance Team Rebuttal/Closing
24. Board Member/WWDR Advisory Team Questions, Close of Public Hearing, Deliberations and Direction to Issuance Team

The first day of the hearing is planned to cover Items 1-10 and the second day Items 11-24.

### **ORDER OF PROCEEDINGS - 9/27 HEARING**

The following order of proceedings governs the September 27, 2005 hearing. The purpose of this hearing will be to consider revisions to the WWDRs proposed by the WWDR Issuance Team made in response to direction given by the Board at the September 14-15, 2005 hearing and to consider adoption of the WWDRs. Testimony and comments will be received orally, but must be germane to the proposed revisions to the WWDRs. No written materials will be accepted.

1. Open Hearing (Chair reads procedure)
2. Policy Statements by Interested Persons (time limit - 1 hour)
3. Issuance Team Introduces Revisions
4. PALCO Presentation on Revisions
5. CFA Presentation on Revisions
6. HWC/EPIC/ERRA Presentation on Revisions
7. HWC/EPIC/ERRA Rebuttal/Closing
8. CFA Rebuttal/Closing
9. PALCO Rebuttal/Closing
10. Issuance Team Rebuttal/Closing
11. Board Member/WWDR Advisory Team Questions, Close of Public Hearing, Deliberations and Decision-making

Additional information will be provided following the September 14-15 hearing regarding time allocations and other constraints applicable to the September 27, 2005 hearing.

